

Chapter 7

BUSINESSES*

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ARTICLE I. IN GENERAL

Secs. 7-1—7-25. Reserved.

ARTICLE II. LOCAL BUSINESS TAXES***Sec. 7-26. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business. Any commercial or mercantile activity or occupation engaged in by any person, real or otherwise, for personal gain, whether profitable or not, and for which the annual gross revenue exceeds \$1,000.00.

Business tax. A tax levied on each business, occupation, or profession for the privilege of engaging in or managing any business, occupation, or profession within the town limits.

Dance hall. Any designated area or place where public dancing is permitted.

Employee. In those instances where the receipt is based on the "number of employees", it shall mean partners, principals, full time people, part time people, temporary help, professionals, subcontractors, independent contractors, leased employees, etc. receiving a W2, K1 or 1099-MISC for \$3,600.00 or more for the previous calendar year. A new business shall be based on the number of employees on opening day.

Flea market. A business or facility either temporary or permanent where temporary booths or stands are established to accommodate the vendor of primarily hand-crafted items or secondhand articles. Such booths may or may not be rented. Such booths are set up for a period not more than seven days and then dismantled.

Game room. A facility wherein more than three amusement vending machines or pool tables are located for public use.

General business. Persons utilizing or renting space for a business at a physical location (including home base businesses). Including, but not limited to, associations, barber/beauty shops, contractors, dry cleaners, funeral homes, insurance agencies, printers, repair shops, etc.

Merchant. A business whose primary activity is selling, trading, or bartering permanent tangible personal property at a permanent location, operating out of a permanent structure. If

***Editor's note**—Ord. No. 330, adopted Oct. 31, 2006, amended Art. II, §§ 7-26—7-44, in its entirety to read as herein set out. Former Art. II pertained to occupational licenses and derived from Ord. No. 271, adopted June 27, 1995.

State law references—Local Occupational License Tax Act, F.S. ch. 205; authority of municipality to levy, F.S. § 205.042; conditions for levy by municipality, F.S. § 205.043; regulatory license authority, F.S. § 166.221.

primary business is licensed under another classification, no additional license is required if same owner's secondary business at same location is a merchant with annual gross revenues not exceeding \$1,000.00.

Merchant, nonpermanent. A business engaged in the business of trading, bartering, selling or servicing tangible personal property operating at a nonpermanent location other than at flea markets or out of a nonpermanent structure. Such business may be conducted at or from a stand or booth.

Occupation. Shall have the same meaning as "business".

Professional. Any person engaged in any business, occupation or profession required to maintain an active and valid State of Florida, Department of Business & Professional Regulation or Florida Bar regulatory license, permit or certificate, unless otherwise classified.

Receipt. The document to be issued by the town clerk or his or her designee which bears the words "Local Business Tax Receipt" and evidences that the person in whose name the document is issued has complied with the provisions of this chapter relating to that business tax.

Rental unit. For the purposes of this article, shall be construed to mean and include apartments, hotels, motels, motor courts, cottages, cabins, convalescent homes, rooms, mobile home parks, townhouses, offices, or other such units which may be rented or leased by the day, week, month, year or longer and located on one lot, plot, or parcel of land.

Square footage. The total square feet, at the end of the prior fiscal year, used for sales, storage and warehouse located in the town limits on and off site, plus all retail office space. To the extent that an area is used for sales, storage or warehousing, it shall be included in the computation whether or not it shall be covered or open. A new business shall be based on the total square feet at opening.

Vending and amusement machines. Shall have the same meaning as provided in F.S. § 205.0537, and shall be governed thereby.
(Ord. No. 330, § 1, 10-31-06)

Sec. 7-27. Levy of business tax.

A business tax is hereby imposed and levied upon and shall be collected from every person exercising the privilege of carrying on or engaging in any business, profession or occupation and who maintains a permanent business location or branch office within this municipality and any person who transacts any business or engages in any occupation or profession in interstate commerce where such a business tax is not prohibited by Section 8, Article 1 of the United States Constitution.

(Ord. No. 330, § 2, 10-31-06)

Sec. 7-28. Business tax receipt required.

Any person who engages in or manages any business, occupation or profession for which there is a business tax required by this article or any ordinance of the town, must have a valid receipt from the town clerk or his or her designee. Any sign, advertisement, building occupancy, directory listing or activity indicating that a business, calling, profession or occupation is being conducted at a location within this municipality shall be prima facie evidence that a person is liable for a business tax.

(Ord. No. 330, § 3, 10-31-06)

Sec. 7-29. Each location and business activity to pay a separate business tax.

A business tax receipt shall be obtained for each location or branch of the business within the town as if the branch or location were a separate business, unless prohibited by F.S. Ch. 205. A business tax receipt shall also be obtained for each unique and different type of business activity. Whenever any business, occupation or profession shall fall into more than one of the classifications contained in the schedule hereinafter set forth in this article, such occupation, business, or profession shall be required to comply with these requirements and to pay the tax imposed under or pertaining to each classification or privilege. The town clerk or his or her designee shall have the authority to determine the classification for each business activity. All business activities shall be assigned to at least one of the approved classifications. Many of the classifications are general in nature, and a more complete list of the businesses contained in each classification will be maintained by the town clerk.

(Ord. No. 330, § 4, 10-31-06)

Sec. 7-30. Vehicles not separate places of business.

Vehicles used by any person licensed under the laws of the town for the sale and delivery of tangible personal property at either wholesale or retail from his place of business on which a license is paid shall not be construed to be separate places of business, and no license may be levied on such vehicles or the operators thereof as salesmen or otherwise.

(Ord. No. 330, § 5, 10-31-06)

Sec. 7-31. Business tax due dates and proration.

(a) A business tax receipt is not valid for longer than one year. All receipts expire on September 30 and shall be payable on or before September 30 of each year, unless otherwise specifically provided by law. If September 30 falls on a weekend or holiday, the tax is due and payable on or before the first working day following September 30.

(b) Half year receipts may be issued by the town clerk or his or her designee for the period April 1 to September 30 upon the payment of one-half of the tax for one year.

(Ord. No. 330, § 6, 10-31-06)

Sec. 7-32. Payment of tax and any delinquency prerequisite to license.

All receipts are issued by the town clerk or his or her designee upon the payment of the local business tax and any delinquency or penalty provided in this article. Any person owing delinquent local business taxes shall be required to pay such delinquent local business taxes before being issued a new receipt.

(Ord. No. 330, § 7, 10-31-06)

Sec. 7-33. Delinquency; penalties; business without a receipt.

(a) Receipts that are not renewed by September 30 are delinquent and subject to a delinquency penalty of ten percent for the month of October, plus an additional five percent penalty for each subsequent month of delinquency thereafter until paid. However, the total delinquency penalty shall not exceed 25 percent of the local business tax for the delinquent establishment.

(b) Any person who engages in or manages any business, occupation or profession without first obtaining a local business tax receipt, if required, is subject to a penalty of 25 percent of the tax due, in addition to any other penalty provided by law or ordinance, and is required to purchase the receipt for the remainder of the year, measured from the time the business activity began.

(c) Any person who engages in any business, occupation, or profession covered by this chapter, who does not pay the required local business tax within 150 days after the initial notice of tax due, and who does not obtain the required receipt is subject to civil actions and penalties, including court costs, reasonable attorneys' fees, additional administrative costs incurred as a result of collection efforts, and a penalty of up to \$250.00.

(d) If the business activity began in a prior year, the owner is required to pay the local business tax from the point of initiation of business activity, not to exceed three years, plus a penalty of 25 percent.

(e) The town clerk or his or her designee can abate the penalty if it is determined that the owner acted in good faith on information provided by town's receipt staff.

(Ord. No. 330, § 8, 10-31-06)

Sec. 7-34. Exemptions.

No receipt shall be required for religious, educational or charitable institutions as defined by state law, or for certain disabled persons, the aged, and widows and widowers with minor dependents, or for disabled veterans of any war or their unremarried spouses, or for the sale of farm products and related activities, all as provided by F.S. Ch. 205, as the same now exists or may hereafter be amended.

(Ord. No. 330, § 9, 10-31-06)

Sec. 7-35. Transfers authorized; fee.

(a) A receipt may be transferred to a new owner when there is a bona fide sale of the business upon payment of a transfer fee in the amount of \$3.00 and presentation of evidence of the sale and the original receipt.

(b) In the event a business location is changed to another location within the town limits, the holder of the receipt shall, within 15 days after the location is changed, have the receipt transferred to the new location. This transfer shall be made upon the presentation of the original receipt and evidence of location change, and upon payment of a transfer fee in the amount of \$3.00.

(c) No transfers shall be authorized for changes in business classifications.

(d) A transferred receipt shall not be good for any time longer than that for which it was originally issued.

(e) A transferred receipt shall be of the same force and effect as the original receipt.
(Ord. No. 330, § 10, 10-31-06)

Sec. 7-36. Receipt to be exhibited and displayed.

Every person having a receipt must exhibit the receipt when called upon to do so by an authorized officer of the town, and the receipt must be conspicuously displayed at all times at the place of business.

(Ord. No. 330, § 11, 10-31-06)

Sec. 7-37. Enforcement and inspection.

(a) The following persons are authorized to conduct inspections in the manner prescribed herein:

- (1) The town clerk or his or her designee shall have the authority to make all investigations reasonably necessary for the enforcement of this article.
- (2) The town clerk or his or her designee has the authority to direct the inspection of receipt holders, their businesses and premises, by any town officials having duties related to the receipts or businesses.
- (3) All police officers shall have the authority to inspect and examine businesses to enforce compliance with this article.

(b) The town clerk, his or her designee, or other authorized persons have the right and duty to inspect from time to time the records of any business in the corporate limits of the town, where the local business tax is based on the number of employees, number of rental units or other financial or qualitative measures. Information obtained from an inspection or investigation shall be used along with other pertinent information in determining the proper classifications and business tax for the business. If it is determined that the required information has been misrepresented or misstated, the amount determined appropriate by the town clerk or his or her designee is due and payable. If it is determined that a business is

improperly classified, penalties as set forth in section 7-32 hereof may be imposed. Any person hindering, impeding, or obstructing any authorized person in his investigation or inspection in the reasonable performance of his duties, as described, shall be guilty of an offense against the town.

(Ord. No. 330, § 12, 10-31-06)

Sec. 7-38. Requirement to file sworn statement; penalty for misrepresentation.

Every person doing business in the town, where the amount of the local business tax to be paid is dependent upon the number of employees, square footage or such other financial quantitative measurements, must file a sworn statement at the time payment is made. The town clerk or his or her designee may require quantitative measurements to be submitted each year prior to renewal. If the measurements are not rendered or are not rendered within the time frame specified, the town clerk or his or her designee may make an estimated tax assessment and add a ten percent penalty for failure to render the measurements as required. Any person making a false statement in the application for a receipt or any person making or signing any application for a receipt, as provided for by this article, in which the statements, matters or things set forth therein or any one or any part of them is untrue, shall upon conviction thereof be punished as provided by section 1-9.

(Ord. No. 330, § 13, 10-31-06)

Sec. 7-39. Agent responsible for local business tax.

The agents, managers, or other representatives of nonresidents who are doing business in the town are personally responsible for the compliance of their principals and of the business they represent with this article.

(Ord. No. 330, § 14, 10-31-06)

Sec. 7-40. Approval of application by building inspectors, zoning officials, health officers, and police department.

All applications must be approved prior to issuance of a receipt by the town zoning official's office. If the application is not approved, the local business tax will be refunded. All applications relating to the preparation, distribution, sales, processing, or consumption of foods or other edible products must be approved prior to issuance of a receipt by the appropriate state agency. All applications relating to the hiring of a vehicle for transportation of passengers shall meet the requirements of this code and state law prior to issuance of a receipt.

(Ord. No. 330, § 15, 10-31-06)

Sec. 7-41. Illegal business.

No receipt issued under the provisions of this article, and no payment of any local business tax required, imposed or levied under this article, shall be construed as authorizing the

conduct or continuance of any illegal business, occupation or profession, or of any business, occupation or profession as may now or hereafter be prohibited by ordinance, or of any legal business, occupation or profession in an illegal manner.

(Ord. No. 330, § 16, 10-31-06)

Sec. 7-42. Not regulatory licenses.

The receipts issued under the authority of this code are licenses for payment of the local business taxes levied on the privilege of carrying on or engaging in a business, profession or occupation under the town's taxing power. Receipts are not regulatory licenses.

(Ord. No. 330, § 17, 10-31-06)

Sec. 7-43. Violations; penalties and revocation.

Any person who violates any of the terms of this article shall immediately cease such activities and shall be subject to penalties as provided by section 1-9 of this Code.

(Ord. No. 330, § 18, 10-31-06)

Sec. 7-44. Local business tax schedule.

No local business tax levied under the authority of this article shall exceed that permitted under F.S. Ch. 205. The amount of the local business taxes levied and imposed upon every person who shall engage in or manage any business, profession, privilege, or occupation hereinafter mentioned within the town is hereby fixed, granted, determined, and imposed at the following rates or amounts as recommended by the Equity Study Commission created for the town by Resolution No. 9403-R pursuant to F.S. § 205.0535, to-wit:

Local Business Tax Schedule

Effective January 1, 2007

Automobile and other vehicular activities:

Dealers; new and/or used cars	\$25.00
Dealers; new and/or used cars plus accessories and repairs under one ownership	50.00
Farm equipment and tractors	25.00
Mobile home dealers.....	25.00
Motorcycle	25.00
Railroad	35.00
Vehicle leasing	25.00
Vehicles for hire, each vehicle	25.00
Plus each operator.....	10.00
Miscellaneous	25.00

Banking/lending institutions (per location):

Automatic teller machines — per service terminal (except those located on site of financial institution)	25.00
Commercial banks	50.00
Credit unions	50.00
Finance company	50.00
Savings and loans	50.00
Miscellaneous	50.00

Communications:

Cablevision	100.00
Newspaper	20.00
Radio station	50.00
Telegraph	50.00
Telemarketing	100.00
Telephone	100.00
Miscellaneous	100.00

Entertainment/amusement:

Amusement parks (per day)	200.00
Auctions	40.00
Bowling alley; each lane	10.00
Circus or carnival (per day)	200.00
Dance/music/event hall	50.00
Festivals, special events, etc. (per day)	200.00
Game room/amusement center	25.00
plus each machine	5.00
Golf course	25.00
Pool tables, per table	10.00
Shooting gallery or range	25.00
Rinks: skating, bicycle, motorcycle, etc.	50.00
Theaters; each screen	50.00
Miscellaneous	50.00

BUSINESSES

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<i>Flea market/farmers market:</i>	100.00
Plus each space, stall, booth, stand (on October 1 or opening day).....	5.00
<i>Fortune teller/clairvoyant (per day):</i>	50.00
<i>Gas and oil dealers:</i>	
Wholesale gasoline, oil, propane, etc.....	125.00
Retail propane, fuel oil, etc.	125.00
Retail gasoline and oil — per dispenser, hose or nozzle	5.00
Miscellaneous	125.00
<i>General business:</i>	
1—5 employees.....	20.00
6—10 employees	30.00
11—20 employees	40.00
Over 20 employees	50.00
<i>Insurance companies: (no local office — sells policies within the town limits) ...</i>	30.00
<i>Junk dealers: (used parts, scrap metal, etc.)</i>	100.00
<i>Merchant/permanent:</i>	
0—3,000 square feet.....	20.00
3,001—6,000 square feet	40.00
6,001—9,000 square feet	80.00
Over 9,000 square feet.....	100.00
<i>Merchant/nonpermanent:</i>	
Miscellaneous	50.00
Peddler	125.00
<i>Miscellaneous/unclassified:</i>	100.00
<i>Pawnbroker:</i>	100.00
<i>Production/manufacturing:</i>	
1—10 employees	25.00
11—50 employees	30.00
51—100 employees	40.00
Over 100 employees	60.00
<i>Professional: (per professional unless otherwise classified)</i>	20.00

Rental units:

Hotel/motel, roominghouse, bed and breakfast	10.00
Plus per unit/room	2.00
Apartment, mobile homes (receipt not required for 4 units or less)	10.00
Plus per unit or lot	2.00
Warehouse	10.00
Plus per 1,000 square feet	2.00
Miscellaneous	10.00
Plus per space, unit or 1,000 square feet	2.00

Restaurants:

0—50 seats	20.00
51—70 seats	30.00
71—100 seats	40.00
Over 100 seats	50.00
No seating	30.00
Mobile food cart	30.00

Vending machines: (per machine)

Merchandise	4.00
Service	4.00
Amusement	5.00

(Ord. No. 330, § 19, 10-31-06)